



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,897	05/07/2002	Clyde Hughes	UDL-101	2366

7590

01/23/2004

David P Gordon  
65 Woods End Road  
Stamford, CT 06905

EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/049,897

Applicant(s)

HUGHES, CLYDE

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6, 7, 9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the second office action for serial number 10/049,897. This action is replying to Applicant's amendment filed on 10/01/03. Claims 1-3, 6-7, 9 and 11-18 remained in this application. Claims 4-5, 8 and 10 have been canceled.
2. The substitute oath submitted on 10/1/03 in replying to the objection in the previous office action has been received.
3. Amendment to specification with an indication of "no new matter has been added" is acknowledged.
4. Drawings correction filed on 6/9/03 in replying to the previous objection has been approved.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12, 13, 14 and 15, each recites the limitation "the securing means" in line

1. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 also recites the limitation "the tubular frame member". There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "an aperture". This limitation appears to be repeated what has been claimed in claim 1, which claimed "an elongated mouth opening". It is unclear Applicant is referring the limitation "an aperture" as being the same as "an elongated mouth opening" as recited in claim 1 or not. Examiner suggests that if the limitation "an aperture" is different with the limitation "an elongated mouth opening", a support description must be provided on both specification and drawings, if not then this limitation should be changed to -- the elongated mouth opening -- in order to overcome the rejection.

***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6-7, 9 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,267,679 to Kamaya, et al.

Regarding claims 1, 6, 7 and 9, Kamaya et al. discloses a carrier mount (See Figs. 1E, 1D or 1A, for example) comprising a pouch (1) having an elongated mouth opening through which an object may be introduced into the interior of the pouch, the opening being narrow relative to the major faces of the pouch; securing arrangement including a collar (12, 20, 27); and a closure means for closing the opening wherein the closure means comprises a zipper closure (21).

Regarding claims 2-3, Kamaya et al. also discloses that the pouch comprises a flexible material and at least a portion of the exterior of the pouch comprises a water resistant material.

Regarding claims 11-14, Kamaya et al. also discloses that the collar is adjustable and tightenable about the frame and comprises a rigid and a flexible element.

Regarding claim 15, Kayama et al. also discloses that the collar portion is positioned adjacent a wall of the pouch; and the collar is a quick release fastening element.

Regarding claims 16-17, Kamaya et al. also discloses that the pouch has opposed side panels defining major faces and a relative shallow depth; and the opening for receiving the device is provided along the upper most edge of the pouch, and the upper most edge of the pouch being substantially arcuate.

Claims 1-3, 6-7, 9 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,724,791 to McSorley.

Regarding claims 1, 6, 7, 9 and 18, McSorley discloses a carrier mount (See Figs. 2-3 for example) comprising a pouch (12) having an elongated mouth opening through which an object may be introduced into the interior of the pouch, a pouch narrow width between the major faces; securing arrangement including a collar (42, 44) (Fig. 3); and a closure means for closing the opening wherein the closure means comprises a zipper closure (34). McSorley also discloses a frame member (50 generally) (see also Col. 4, line 13) where the collar is to be located around the frame.

Regarding claims 2-3, McSorley also discloses the pouch comprising a flexible material and at least a portion of the exterior of the pouch having a water resistant material.

Regarding claims 13-15, McSorley discloses that the collar is rigid , a flexible element and is a quick release fastening arrangement.

Regarding claims 16-17, McSorley also discloses that the pouch has opposed side panels defining major faces and a relative shallow depth; and the opening for receiving the device is provided along the upper most edge of the pouch, and the upper most edge of the pouch being substantially arcuate.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamaya et al.

Kamaya et al. lacks teaching a frame member of an exercise machine where the collar designed to be located around the frame member for securing the pouch in close proximity to the frame member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the collar of Kamaya et al. clasp or loop around the frame

member for the desirable purpose of simply hanging or suspending the pouch to the frame member since the collar of Kamaya et al. can be hung, suspended or fastened to any frame member and capable of locating around the frame member for securing the pouch in close proximity to the frame member.

### ***Response to Arguments***

8. Applicant's arguments filed on 10/1/03 have been fully considered but they are not persuasive. Applicant's argument with respect to Kamaya et al. as discussed on pages 9 and 10 of the Remarks has been considered but not persuasive. Kamaya et al. clearly teaches all the limitations of the claims as pointed out in the office action.

A frame member has been added to claim 18, however, this limitation still does not overcome McSorley or Kamaya et al. as pointed out in the rejection.

9. Applicant's amendment necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3632

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10 Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Monday through Friday, from 9:00 AM -6:00 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.



Tan Le  
Patent Examiner  
AU 3632  
January 15, 2004.



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER